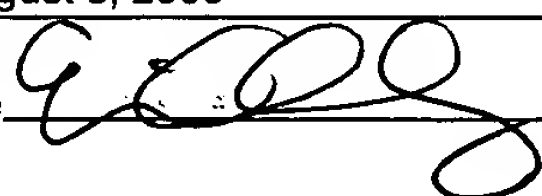
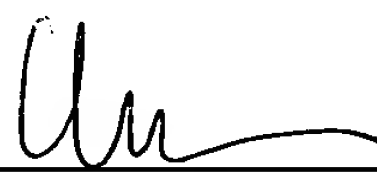


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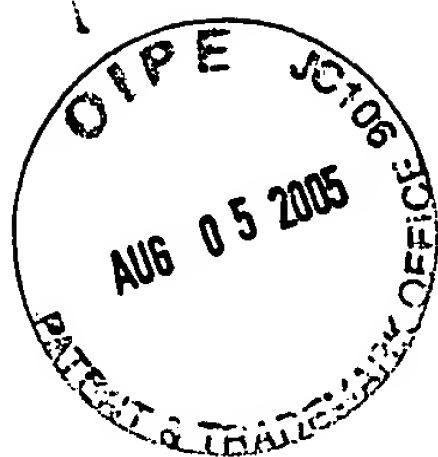
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>August 3, 2005</u></p> <p>Signature <u></u></p> <p>Typed or printed name <u>Erin A. Campion</u></p>		Application Number	Filed
		09/862,968	May 22, 2001
		First Named Inventor	
		John Andrew Aiken Jr.	
Art Unit		Examiner	
2154		Vu, Viet Duy	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48,568</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p><u></u> Signature</p> <p><u>Elizabeth A. Stanek</u> Typed or printed name</p> <p><u>(919) 854-1400</u> Telephone number</p> <p><u>August 3, 2005</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

<input type="checkbox"/> *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**RESPONSE UNDER 37 C.F.R. 1.116 - EXPEDITED
PROCEDURE - EXAMINING GROUP 2154**

Attorney's Docket No. 5577-233

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Aiken, Jr. *et al.*

Serial No.: 09/862,968

Filed: May 22, 2001

For: **METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR
PORT ASSIGNMENTS OF MULTIPLE APPLICATION INSTANCES USING
THE SAME SOURCE IP ADDRESS**

Confirmation No.: 9829

Group Art Unit: 2154

Examiner: Vu, Viet Duy

Date: August 3, 2005

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Alexandria, VA 22313-1450

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Erin A. Campion

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Applicants requests that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 09-0461.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed May 3, 2005 and the Advisory Action

mailed July 19, 2005. The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Claims 1-11, 13-17, 19-24, 26-30, 32, 34 and 36-47 stand rejected under 35 U.S.C. § 103(a) as being obvious in light of United States Patent No. 6,247,057 to Barrera, III (hereinafter "Barrera"). See Final Office Action, page 2. Applicants respectfully submit many of the recitations of the pending claims are not met by Barrera for at least the reasons discussed herein and in Applicants' previously filed Amendments of January 20, 2005 and July 5, 2005. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity, Applicants will only discuss the recitations of the independent claims that are not met by Barrera.

Independent Claim 1 of the present invention recites:

A method of assigning a port for a **connection originated by one of multiple application instances**, the multiple application instances **executing on different data processing systems and utilizing a common network address**, comprising:
providing an indication of available ports for the common network address to each of the different data processing systems executing the multiple application instances; and
selecting a port identified as available as the port for the connection utilizing the common network address.

Recitations corresponding to those of Claim 1 are also found in independent Claims 44 and 46. Applicants submit that at least the highlighted recitations of Claim 1 are not met by the cited portions of Barrera.

In particular, Barrera appears to relate to a system for allowing requests to multiple services that would otherwise use the same port. See Barrera, column 6, lines 8-33. Barrera describes a problem where incoming requests to use a service specify the same port. The requests for different virtual services are differentiated by the IP address. See Barrera, column 6, line 64 to column 7, line 13 and footnote 1, Response to First Office Action, page 14. However, as described in Barrera, the operating system strips the IP address from the request and, therefore, all requests to the same port appear as a request to the same service. See Barrera,

column 6, lines 8-23. Barrera appears to solve this problem by associating different service instances with different predefined ports and then mapping the IP address of the request to the predefined ports so as to differentiate between service requests that would otherwise use the same port. *See* Barrera, column 6, line 39 to column 7, line 13. Barrera describes an endpoint ID creator that establishes the relationship between the designated endpoint IDs (*e.g.* the globally known port for the type of service) and the new endpoint ID (*e.g.* the remapped port for a particular instance of a virtual service). *See* Barrera, column 8, lines 34-52. Thus, Barrera appears to relate to mapping of incoming requests to multiple service instances that share a common port identification from the requestor's perspective. The mapping is **not** made on a connection by connection basis, but appears to be static once established and does not appear to be responsive to a connection being established but, rather, is responsive to a service starting.

Since, as discussed above, Barrera relates to mapping incoming requests for use of a service to multiple instances of the service, not to assignments of ports for connections initiated by the services, **Applicants submit that the recitation of "a method of assigning a port for a connection originated by one of multiple application instances, the multiple application instances executing on different data processing systems and utilizing a common network address" recited in Claim 1 of the present invention is not met by Barrera for at least these reasons.**

As is clear from the above cited portions of Barrera, the IP addresses appear to be different for the different instances of a service, but the ports are the same. In contrast, Claim 1 of the present invention recites that the multiple application instances utilize a "common network address" and that the selected port is used "for the connection utilizing the common network address." **Thus, these recitations of Claim 1 are also not met by Barrera.**

With regard to the recitations of Claim 1 that recites "providing an indication of available ports for the common network address to each of the different data processing systems executing the multiple application instances," the Office Actions **do not address** the recitations that the indication is provided "to each of the different data processing systems executing the multiple application instances," but merely cites to a portion of Barrera that discusses a mapping table.

The citation to Barrera, column 8, lines 53-63, does not appear to disclose or suggest that the table is provided to the processing systems executing application instances that are originating connections. **As such, Applicants submit that these recitations of Claim 1 are also not met by the cited portion of Barrera.**

The First Office Action (page 3) also cites to column 6, line 64 to column 7, line 13 of Barrera as disclosing the selection of a port as recited in Claim 1. However, as discussed above, Applicants submit that this portion of Barrera does not relate to the assignment of ports for connections utilizing a common network address but, instead, uses the network address as a differentiator and selects a port based on the different network addresses. *See* Barrera, table in column 7. **As such, Applicants submit that the recitation of "selecting a port identified as available as the port for the connection utilizing the common network address" as recited in Claim 1 is not met by the cited portions of Barrera.**

Furthermore, Applicants submit that to the extent Claim 38 has recitations analogous to those of Claim 13, that these recitations are also not met by the cited portions of Barrera for at least reasons analogous to those discussed above with reference to Claim 13.

Finally, to the extent that the language of Independent Claim 13 is analogous to that of Claim 1, Applicants submit that the recitations of Claim 13 are not met by Barrera for at least the reasons discussed above with reference to Claim 1. Furthermore, Claim 13 expressly recites the use of a dynamic virtual IP address (DVIPA). Applicants can find no reference or corresponding recitations of the cited portions of Barrera that would disclose or suggest the use of a DVIPA with the system of Barrera. The Final Office Action states that Barrera teaches DVIPAs because Barrera discusses virtual services. *See* Final Office action, Page 4. However, Applicants respectfully disagree for at least the reasons discussed in Applicants' Amendment and request for Reconsideration of July 5, 2005 at page 20, second full paragraph. **Accordingly, for at least these reasons, Applicants submit that the recitations of DVIPAs is not met by Barrera.**

Furthermore, with respect to Claim 13, Applicants can find no reference in the cited portions of Barrera that disclose that the indication of available ports is stored in a commonly accessible storage facility where the storage facility is accessible to the data processing systems

Attorney's Docket No. 5577-233
Application Serial No. 09/862,968
Filed: May 22, 2001
Page 5

that are originating the connections. As such, Applicants submit that these recitations of Claim 13 are not met by the cited portions of Barrera. Recitations corresponding to those of Claim 13 are also found in independent Claims 45 and 47 and, Applicants submit that the corresponding recitations of Claim 13 are also not met by the cited portions of Barrera for analogous reasons.

Accordingly, for at least the reasons discussed above, many of the recitations of Independent Claims 1, 13, 38, 44, 45, 46 and 47 are not met by Barrera. Therefore, Applicants respectfully request that the present application be reviewed and reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,



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